



# Board of County Commissioners (BCC)

## Zoning Meeting

<http://www.bernco.gov>

### ~ Minutes ~

Yvette Chavez  
505 468 7083

Tuesday, March 26, 2013

1:00 PM

Vincent E. Griego Chambers

## Call to Order

The Meeting was Called to Order at 01:00 PM

Attendee Name	Title	Status	Arrived
Maggie Hart Stebbins	Chair	Present	
Debbie O'Malley	Vice Chair	Present	
Lonnie Talbert	Member	Present	
Wayne A. Johnson	Member	Present	
Art De La Cruz	Member	Present	

## 1. Announcement of additions and changes to the agenda

Defer items 4A it

## 2. MINUTES APPROVAL

### A. Minutes (ID # 2764)

Minutes of the February 26, 2013 Zoning Meeting

Approval of Minutes

#### ATTACHMENTS:

- 02-26-13 zoning (PDF)

## 3. APPROVAL OF CONSENT AGENDA

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Maggie Hart Stebbins, Chair
<b>SECONDER:</b>	Debbie O'Malley, Vice Chair
<b>AYES:</b>	Maggie Hart Stebbins, Debbie O'Malley, Lonnie Talbert, Wayne A. Johnson

### A. Zoning Memo (ID # 2761)

Csu-20130007- Special Use Permit for a Specific Use for an Office, Contractor's Equipment Storage, and a Free-Standing Off-Premises Sign

Approval

At the February 6, 2013 public hearing, the County Planning Commission voted (5-1; Commissioner Chavez opposed, Commissioner Atencio excused) to recommend approval of the request for a Special Use Permit for a Specific Use for an Office, Contractor's Equipment Storage, and a Free-Standing Off-premises Sign, on Lot 1, Ortega Meadows Subdivision, located at 8800 Second St. NW, zoned R-1 with a Special Use Permit for a Free-Standing Off

Premises Sign and Tool repair and Warehouse and containing approximately .57 acres. The decision was based on the following six (6) Findings and is subject to the following fourteen (14) Conditions.

**Findings:**

1. This request is for approval of a Special Use Permit for a Specific Use for an Office, Contractor's Equipment Storage, and a Free-Standing Off-premises Sign, on Lot 1, Ortega Meadows Subdivision, NW, zoned R-1 with a Special Use Permit for a Free Standing Off Premises Sign and Tool Repair and Warehouse, and containing approximately .57 acres.
2. The property is located in the Rural Area of the Albuquerque/Bernalillo County Comprehensive Plan and the North Valley Area Plan.
3. The property has Special Use Permits for a Free-Standing Off-Premises Sign and Tool Repair and Warehouse (CZ-81-35, CSU-89-32). This Special Use Permit for an Office, Contractor's Equipment Storage, and a Free-Standing Off-premises Sign (CSU-20130007) supersedes the previous Special Use Permits (CZ-81-35, CSU-89-32).
4. This request is consistent with Resolution 116-86 in that changed neighborhood conditions adjacent to and in the vicinity of the site, including the development of several light industrial businesses, justify this land use change.
5. The request has neighborhood support, and the property has unique conditions.
6. The request is consistent with the health, safety, and general welfare of the residents Bernalillo County.

**Conditions:**

1. The uses on the site shall be limited to contractor's equipment (truck) storage, office, and off premises sign. Truck parking shall be limited to 3 trucks and 1 trailer. There shall be no repairing, dismantling, or fabrication on the site.
2. There shall be no open storage of materials or debris on the site.
3. Hours of operation on the site shall be limited daily to 7 a.m. to 7 p.m. Diesel engines may idle for no more than 15 minutes at any given time.
4. Parking shall comply with Section 21.D of the Zoning Ordinance, including the following:
  - a. There shall be a minimum of 6 automobile parking spaces (1 space per every 200 square feet of floor area), in addition to truck parking spaces.
  - b. Surfacing of all parking areas shall be provided for the site meeting the specifications of Section 21.D.2 of the Zoning Ordinance.
  - c. Parking spaces, including for trucks, shall be clearly marked on the site. Handicap spaces shall be appropriately configured, marked and paved, with required signage.
  - d. The surfacing and marking of spaces shall be provided within six months of the final

Board of County Commissioners approval.

5. Lighting shall be site specific. Shielded or cutoff fixtures shall be provided so that no fugitive light crosses into adjacent lots. Lighting shall be shown on the final site plan.
6. No parking will be allowed along Second St. or on Ortega Rd.
7. No outdoor speakers or amplified sound systems shall be permitted.
8. Landscaping and solid fencing for the site shall be installed within six months of the final Board of County Commissioner's approval and shall meet the standards outlined in the Zoning Ordinance (Section 19), including:
  - a. There shall be a landscaped setback along all streets of no less than ten (10) feet with the required number of trees and planting material. The setback shall include the planting of at least one tree per every 30 linear feet of frontage and at least 75 percent of the area must be planted and maintained with live planting material.
  - b. There shall be a landscaped buffer, of no less than six (6) feet along the portions of the property adjacent to residential uses to form a largely opaque screen.
  - c. A solid fence or wall at least six (6) feet high shall be erected along the portions of the property adjacent to residential zones, except for those sides abutting public right-of-way.
  - d. 15 percent of paved areas shall be landscaped (the landscape setback may count towards this requirement).
  - e. The landscaping shall comply with the Bernalillo County Water Conservation Ordinance, including plant types and irrigation.
9. A Traffic Scoping Report shall be submitted to the Public Works Division within two months of the final Board of County Commissioners' approval. A copy of the approval shall be provided to the Zoning, Building, and Planning Department.
10. Signage for the site shall be limited to the two freestanding signs shown on the site plan.
11. The applicant shall comply with all applicable Bernalillo County ordinances and regulations.
12. The Special Use Permit shall be issued for ten (10) years.
13. A revised site development plan consistent with the Conditions of Approval shall be submitted for review and approval to the Zoning Administrator within two months after the final approval of the Board of County Commissioners. The final site plan shall show the required landscaping.
14. The foregoing conditions shall become effective and shall be strictly complied with immediately upon execution or utilization of any portion of the rights and privileges authorized by this Special Use Permit.

ATTACHMENTS:

- Agenda Item (PDF)
- Attachment 1 CPC Notice of Decision (PDF)
- Attachment 2 CPC Staff Report (PDF)
- Revised Site Plan (PDF)

**B. Zoning Memo (ID # 2762)**

Cz-20130002-Zone Map Amendment from C-1 for Tract 3B2 and the Vacated Portion of the Arenal Main Canal to M-1

Approval

At the February 6, 2013 public hearing, the County Planning Commission voted 7-0 to recommend approval of a Zone Map Amendment from C-1 to M-1 for the Vacated Portion of Arenal Main Canal, Lots 7 and 8 Charles B. Payne Addition and Portion of Tract 3-B-2 MRGCD Map 47, located at 3310 and 3308 Coors Blvd. SW, zoned C-1 and containing approximately .32 acres. The decision was based on the following Five (5) Findings.

Findings:

1. This is a request of a Zone Map Amendment from C-1 to M-1 for the Vacated Portion of Arenal Main Canal, Lots 7 and 8 Charles B. Payne Addition and Portion of Tract 3-B-2 MRGCD Map 47, located at 3310 and 3308 Coors Blvd. SW, zoned C-1 and containing approximately .32 acres.
2. The property is located in the Developing Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan, Residential Area Five (5) of the Southwest Area Plan.
3. This request is consistent with Resolution 116-86 in that proposed zone change is different from the surrounding area because of its dual zoning and the nature of the uses already on the premises being permissive in the M-1 zone but not in the C-1 zone.
4. This request is consistent with Resolution 116-86 in that Southwest Area Plan, Policy 50 in that the request allows for permissive uses that may emphasize job creation and expansion of employment opportunities for residents of the Southwest Area.
5. This request is consistent with the health, safety, and general welfare of the residents of the County.

ATTACHMENTS:

- Agenda Item (PDF)
- Attachment 1 CPC Notice of Decision (PDF)
- Attachment 2 CPC Staff Report (PDF)

**4. APPEALS****A. Zoning Memo (ID # 2587)**

Co-20130003\_Ba-20110021\_Za-20100120 APPEAL: the Zoning Administrator's Denial of an Administrative Amendment to an Existing Special Use Permit for a Mobile Home Park

Denial of the appeal

At the March 26, 2013 hearing the BCC deferred this item for one month. At the February 26, 2013 public hearing, this appeal request for an administrative amendment to a Special Use Permit for a Mobile Home Park (CO-20130003/BA-20110021/ZA-201000120) was deferred by the Board of County Commissioners for 30 days to allow the applicant to revise the site plan under consideration for the Administrative Amendment to the Special Use Permit.

Since the January 22, 2013 hearing the appellant has informed county staff that a revised site plan is in the process of completion. The revised site plan is intended to provide sufficient detail to comply with the original intent of the original Special Use Permit but provide a path for consideration of a alternative site layout.

At the December 5, 2012 hearing, the Board of Adjustment (BA) cast a tie vote, which neither upheld nor overturned the Zoning Administrators decision in denying an administrative amendment to an existing Special Use Permit. The (BA) voted 3 - 3 (Commissioners Sanchez, Chavez & Malry opposed; Barbour excused). A tie vote does not impact the previous decision of the Zoning Administrator.

This request presented to the (BA) on December 5, 2012 was an appeal of the Zoning Administrator's decision to deny an administrative amendment request to an existing Special Use Permit for a Mobile Home Park (CSU-83-6). This matter was remanded from the June 6, 2012 Board of Adjustment meeting to the Zoning Administrator for the September 11, 2012 hearing. This request has been deferred several times previously in order to allow the applicant to meet the requirements of an administrative amendment.

Section 24.A.2.j. of the Comprehensive Zoning Ordinance of Bernalillo County allows the granting of an administrative amendment to an existing Special Use Permit. The criteria for an administrative amendment requires that any such amendment shall result in an equal or less intense use of the land than that first approved by the Board of County Commissioners; and that no minimum requirement or additional requirement imposed on any development plan by the Board of County Commissioners would be modified.

The Zoning Administrator determined that based on the submitted materials that this standard had not been met.

**HISTORY:**

01/22/13                      Board of County Commissioners                      DEFERED  
Next: 02/26/13

Deferred for one month.

02/26/13                      Board of County Commissioners                      DEFERED  
Next: 03/26/13

Enrico Gradi presented the cases.

**ATTACHMENTS:**

- Agenda Item 1-22-2013 (PDF)
- Attachment 1 Request for Deferral (PDF)
- Attachment 2 Letter from Applicants Attorney (PDF)
- Attachment 3 Appeal Application and Submitted Materials (PDF)
- Attachment 4 BA Notice of Decision (PDF)
- Attachment 5 BA Staff Report (PDF)
- Attachment 6 Minutes from BA (PDF)
- Materials submitted to BA for December hearing (PDF)
- Support of the Cancellation 1-13-13 (PDF)
- Letter from Appellant 2-19-13 (PDF)
- Letter from Northeast Valley Neighborhood Association 2-21-13 (PDF)
- Revised \_Site Plan 2-12-13 (PDF)
- Revised\_Landscape Plan 1-31-13 (PDF)

- Agenda Item 2-26-2013 (PDF)
- Agenda Item 3-26-2013 (PDF)
- Letter from Neighbors for Appeal 3-19-13 (PDF)
- Direction Response Letter 3-13-13 (PDF)
- Site and Landscape Plan 3-11-13 (PDF)

**RESULT: DEFERED [UNANIMOUS]****Next: 4/23/2013 3:00 PM****MOVER:** Wayne A. Johnson, Member**SECONDER:** Lonnie Talbert, Member**AYES:** Hart Stebbins, O'Malley, Talbert, Johnson, De La Cruz**B. Zoning Memo (ID # 2588)**

Co-20130004\_Csu-83-6 APPEAL: Cancellation of a Special Use Permit for a Mobile Home Park

No recommendation due to a tie vote; staff's request for cancellation moved forward.

At the March 26, 2013 public hearing, the Board of County Commissioners (BCC) deferred this appeal request for the cancellation of a Special Use Permit for a Mobile Home Park (CO-20130004/CSU-83-6) for one month. At the February 26, 2013 public hearing, the case was deferred by the BCC for 30 days to allow the applicant to revise the site plan under consideration for the Administrative Amendment to the Special Use Permit. The request was also deferred for one month at the January 22, 2013 hearing.

At the December 5, 2012 public hearing, the County Planning Commission (CPC) failed, based on a tie vote (3-3, Commissioners Chavez, Malry, Sanchez opposed; Commissioner Barbour excused) to recommend approval or denial of staff's recommendation for cancellation of a Special Use Permit for a Mobile Home Park on Lots 7, 8, 9 & 10, Block 2, Sunnymead Addition, located at 740 Tyler Road NE and 743 & 747 Carlito Road NE, zoned M-H, and containing approximately 1.64 acres. Therefore, the recommendation of staff to cancel the Special Use Permit has been passed along to the Board of County Commissioners with six findings for cancellation (Attachment 1--Notice of Decision; See also Attachment 4-Draft of CPC Minutes).

Due to the continued non-compliance of the property with the approved site plan, dated 2/16/83, staff first notified the property owner of the intent to cancel the Special Use Permit in December 2009. The request was first considered by the County Planning Commission in April 2010, at which time the CPC instructed the property owner to either to comply with the approved site plan or obtain an Administrative Amendment for a new site plan to account for changes to the site, and to propose an alternate landscaping plan. The property owner has elected to seek an Administrative Amendment that would allow for a new site plan that more closely matches the existing mobile home configuration and includes plans for different landscaping on the site.

Since 2010, the Administrative Amendment request (ZA-20100120) has been considered and denied three times by the Zoning Administrator and then appealed to the Board of Adjustment (BA-20110021), while the cancellation request has been deferred several times to allow the Zoning Administrator and the Board of Adjustment to render their decisions. Most recently, the Zoning Administrator denied the request for an Administrative Amendment on November 13, 2012, and the property owner appealed the decision to the Board of Adjustment. Throughout the

review and appeal processes, the property has not been in compliance with the approved site plan for the Special Use Permit, in terms of the landscaping and the placement of the mobile homes.

At the December 5, 2012 hearing the Board of Adjustment failed to reach a decision regarding the appeal of the denial of the Administrative Amendment (due to a tie vote), so that the Zoning Administrator's decision was upheld. The CPC then heard the Cancellation request and again failed to reach a decision. The request for cancellation of the Special Use Permit was therefore passed forward to the BCC, with the findings of staff as in the Notice of Decision letter.

The property owner is now appealing the action of the County Planning Commission, together with that of the Board of Adjustment regarding the Administrative Amendment (CO-20130003), which has resulted in the forwarding of the cancellation request to the Board of County Commissioners (Attachment 3). The appeal requests additional consideration of the Administrative Amendment to the Special Use Permit, which could approve a new site plan for the subject property and avoid the cancellation of the Special Use Permit. In addition, the appeal states there is evidence to suggest the property was deemed as in compliance with the Special Use Permit in 1987-1991. Additional materials had been submitted by the appellants and the opponents of the appeal (Attachment 7, Attachment 8).

For the January 22, 2013 BCC hearing, the agent for the appellant requested additional time (e.g., 2-3 months) to submit additional materials (e.g., a site plan) for the appeals (Attachment 5). The BCC granted a 30 day deferral. Since the January 22, 2013 BCC hearing, neighbors have continued to note concerns with the mobile home park (Attachments 9, 11). The cancellation request was deferred again at the February 26, 2013 BCC hearing to allow the appeal of the Administrative Amendment request to be addressed through a revised site plan. The appellant had requested the new site plan be approved and the cancellation request be withdrawn (Attachment 10). In February, the BCC deferred the cancellation request for one month to allow the appellant to make additional changes to the site plan for the Administrative Amendment. In March, the BCC also deferred the request for one month.

**HISTORY:**

01/22/13	Board of County Commissioners	DEFERED
Next: 02/26/13		

Deferred for one month.

02/26/13	Board of County Commissioners	DEFERED
Next: 03/26/13		

**ATTACHMENTS:**

- Agenda Item 1-22-2013 (PDF)
- Attachment 1 Notice of Decision (PDF)
- Attachment 2 CPC Staff Report (PDF)
- Attachment 3 Appeal Application (PDF)
- Attachment 4 CPC Minutes (PDF)
- Attachment 5 Request for Deferral Reschedule (PDF)
- Site Plan 2-16-83 (PDF)
- Support of the Cancellation 11-21-12 (PDF)
- Support of the Cancellation 1-13-13 (PDF)
- Agenda Item 2-26-2013 (PDF)
- Letter from Appellant 2-19-13 (PDF)
- Letter from Northeast Valley Neighborhood Association 2-21-13 (PDF)

- [Agenda Item 3-26-2013](#) (PDF)

<b>RESULT:</b>	<b>DEFERED [UNANIMOUS]</b>	<b>Next: 4/23/2013 3:00 PM</b>
<b>MOVER:</b>	Wayne A. Johnson, Member	
<b>SECONDER:</b>	Lonnie Talbert, Member	
<b>AYES:</b>	Hart Stebbins, O'Malley, Talbert, Johnson, De La Cruz	

**5. Announcement of next Zoning Meeting:**

- A. Tuesday, April 23, 2013 Zoning Meeting @ 3:00 p.m., Vincent E. Griego Chambers

**6. Signing of official Documents**

**7. Adjournment of Meeting**